

AMENDED IN SENATE MAY 3, 2005  
AMENDED IN SENATE APRIL 18, 2005

**SENATE BILL**

**No. 233**

**Introduced by Senator Figueroa**

February 15, 2005

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An act to amend Sections 4927, 4928, 4934, and 4937 of the Business and Professions Code, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

SB 233, as amended, Figueroa. Acupuncture.

The Acupuncture Licensure Act provides for the licensure and regulation of acupuncturists by the Acupuncture Board and requires the board to enforce and administer the provisions of the act. Existing law authorizes the board to employ necessary personnel and appoint an executive officer. The provisions establishing the board and providing for the employ of personnel and the appointment of an executive officer will become inoperative on July 1, 2006, and will be repealed on January 1, 2007. The act authorizes a licensee to practice acupuncture, as defined, and to perform or prescribe the use of oriental massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to provide, maintain, and restore health. Existing law makes it a crime to practice acupuncture without a license.

This bill would instead make the provisions establishing the board and providing for the employ of personnel and the appointment of an executive officer inoperative on January 1, 2006, and would repeal them on July 1, 2006. The bill would include in the definition of acupuncture the diagnosis of a person for the purpose of providing acupuncture treatment. The bill would also authorize a licensee to

diagnose for the purpose of performing or prescribing the use of oriental massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to promote, maintain, and restore health.

By expanding the definition of acupuncture, the unauthorized practice of which is a crime, this bill would impose a state-mandated local program.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4927 of the Business and Professions  
2 Code is amended to read:

3 4927. As used in this chapter, unless the context otherwise  
4 requires:

5 (a) “Board” means the Acupuncture ‘Board”.

6 (b) “Person” means any individual, organization, or corporate  
7 body, except that only individuals may be licensed under this  
8 chapter.

9 (c) “Acupuncturist” means an individual to whom a license  
10 has been issued to practice acupuncture pursuant to this chapter,  
11 which is in effect and is not suspended or revoked.

12 (d) “Acupuncture” means the stimulation of a certain point or  
13 points on or near the surface of the body by the insertion of  
14 needles to prevent or modify the perception of pain or to  
15 normalize physiological functions, including pain control, for the  
16 treatment of certain diseases or dysfunctions of the body and  
17 includes the techniques of electroacupuncture, cupping, and  
18 moxibustion. “Acupuncture” also includes the diagnosis of a  
19 person for the purpose of providing acupuncture treatment.

20 (e) *Nothing in this section shall be construed to authorize an*  
21 *acupuncturist to diagnose any physical or mental disorder*  
22 *pursuant to Sections 2038 and 2052.*

23 SEC. 2. Section 4928 of the Business and Professions Code is  
24 amended to read:

25 4928. The Acupuncture Board, which consists of nine  
26 members, shall enforce and administer this chapter.

1 This section shall become inoperative on January 1, 2006, and,  
2 as of July 1, 2006, is repealed, unless a later enacted statute,  
3 which becomes effective on or before July 1, 2006, deletes or  
4 extends the dates on which it becomes inoperative and is  
5 repealed.

6 The repeal of this section renders the board subject to the  
7 review required by Division 1.2 (commencing with Section 473).

8 SEC. 3. Section 4934 of the Business and Professions Code is  
9 amended to read:

10 4934. The board shall employ personnel necessary for the  
11 administration of this chapter; however, the board may appoint  
12 an executive officer who is exempt from the provisions of the  
13 Civil Service Act.

14 This section shall become inoperative on January 1, 2006, and,  
15 as of July 1, 2006, is repealed, unless a later enacted statute,  
16 which becomes effective on or before July 1, 2006, deletes or  
17 extends the dates on which it becomes inoperative and is  
18 repealed.

19 The repeal of this section renders the board subject to the  
20 review required by Division 1.2 (commencing with Section 473).

21 SEC. 4. Section 4937 of the Business and Professions Code is  
22 amended to read:

23 4937. An acupuncturist's license authorizes the holder  
24 thereof:

25 (a) To engage in the practice of acupuncture.

26 (b) To diagnose for the purposes of, and to perform or  
27 prescribe the use of, oriental massage, acupressure, breathing  
28 techniques, exercise, heat, cold, magnets, nutrition, diet, herbs,  
29 plant, animal, and mineral products, and dietary supplements to  
30 promote, maintain, and restore health. *Nothing in this section*  
31 *shall be construed to authorize an acupuncturist to diagnose any*  
32 *physical or mental disorder pursuant to Sections 2038 and 2052.*  
33 Nothing in this section prohibits any person who does not  
34 possess an acupuncturist's license or another license as a healing  
35 arts practitioner from performing, or prescribing the use of any  
36 modality listed in this subdivision.

37 (c) For purposes of this section, a "magnet" means a mineral  
38 or metal that produces a magnetic field without the application of  
39 an electric current.

1 (d) For purposes of this section, “plant, animal, and mineral  
2 products” means naturally occurring substances of plant, animal,  
3 or mineral origin, except that it does not include synthetic  
4 compounds, controlled substances or dangerous drugs as defined  
5 in Sections 4021 and 4022, or a controlled substance listed in  
6 Chapter 2 (commencing with Section 11053) of Division 10 of  
7 the Health and Safety Code.

8 (e) For purposes of this section, “dietary supplement” has the  
9 same meaning as defined in subsection (ff) of Section 321 of  
10 Title 21 of the United States Code, except that dietary  
11 supplement does not include controlled substances or dangerous  
12 drugs as defined in Section 4021 or 4022, or a controlled  
13 substance listed in Chapter 2 (commencing with Section 11053)  
14 of Division 10 of the Health and Safety Code.

15 SEC. 5. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the  
20 penalty for a crime or infraction, within the meaning of Section  
21 17556 of the Government Code, or changes the definition of a  
22 crime within the meaning of Section 6 of Article XIII B of the  
23 California Constitution.